IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CASE NO.: **Crl.M. No.456-MA of 2007**
DATE OF DECISION: October 15, 2007

STATE OF PUNJAB ...APPELLANT

VERSUS

HARJIT SINGH & ORS. ...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE ASHUTOSH MOHUNTA.
HON'BLE MR. JUSTICE MOHINDER PAL.

PRESENT: MR. D.R. BRAR, DAG, PUNJAB, FOR THE APPELLANT.

ASHUTOSH MOHUNTA, J. (ORAL)

The State has filed this appeal against the judgement dated 29.3.2007, passed by Addl. Sessions Judge, Gurdaspur vide which the respondents have been acquitted of the charges under Section 304-B and 498-A IPC.

Briefly, the facts of the case are that Shoba Singh, brother of the deceased, Nirmal Kaur lodged the FIR at Police Station Sadar Gurdaspur, wherein it was stated that his sister, Nirmal Kaur was married to Harjit Singh about four years back and out of the wedlock 2 children were born. It has further been averred that as the accused were not happy with the dowry given to Nirmal Kaur, hence she was being troubled and harassed. It has further been averred that about 3 months prior to the occurrence, Nirmal Kaur had come to her parental home and told that Darshan Singh, Satnam Singh and Harjit Singh are torturing her on account of bringing less dowry. She had told her brother that the accused are demanding a sum of Rs.50,000/- so that they can purchase certain land. The deceased is also alleged to have told the complainant that the accused are

also giving her beatings for bringing insufficient dowry. On 7.10.2005, at about 1.00 P.M., the deceased Nirmal Kaur talked to her brother (complainant) Shoba Singh and told him that the accused are harassing and maltreating her and requested him to come and take her away. The complainant alongwith his cousin, namely, Surinder Singh went to meet Nirmal Kaur. At that time she told them that she had consumed sulphos. She was immediately shifted to Oberoi Hospital from where she was referred to Civil Hospital, Gurdaspur. However, Nirmal Kaur died on the way. On the basis of said statement, the FIR was recorded.

Before the trial Court all the material witnesses, i.e. PW-2 Shoba Singh, who is the real brother of the deceased, PW-3 Shangara Singh, father of the deceased and PW-4 Surinder Singh, cousin of the deceased although supported the case of the prosecution in examination-in-chief, however, could not withstand the cross-examination and resiled from their statements made in their examination-in-chief. These persons who were the most material witnesses have categorically stated that the accused never made any demand of dowry nor was the deceased subjected to any cruelty before her death. In view of the aforementioned depositions made by PW-2, PW-3 and PW-4, the trial Court found that as the essential ingredients of Section 304 are missing, hence the accused have been acquitted.

We have heard the counsel for the State and have gone through the impugned judgement. PW-2 Shoba Singh has stated in his examination-in-chief that the accused had borrowed a sum of Rs.20,000/- from him. But he has categorically stated in his cross examination that the accused never harassed his sister. He has further stated that his sister used to live happily. PW-3 Shangara Singh, father of the deceased has also made similar

statement in his examination-in-chief. This witness has also stated that his daughter used to remain happy with her husband and other family members of her in-laws during her lifetime. He has further stated that the accused never demanded any dowry either from his daughter or from him and that no dowry was given to the accused. He has also stated that the accused had borrowed a sum of Rs.20,000/- for purchasing the land but apart from the above amount his daughter never told him that her in-laws are demanding more dowry and are harassing her.

From the aforementioned depositions of the brother and father of the deceased, namely, Shoba Singh and Shangara Singh, PW-2 and PW-3, it is clear that these witnesses have not supported the case of the prosecution. There is nothing on record by which it can be assumed that the accused were subjecting the deceased with cruelty. Both PW2 and PW3 have categorically stated that the deceased was never harassed or tortured by the accused and the accused never demanded dowry. Thus, when the main witnesses in this case who are none other than the father and brother of the deceased have not supported the case of the prosecution, therefore, the accused were rightly given the benefit of doubt and were acquitted by the trial Court. There is no ground to take different view from what has already been taken by the trial Court. Resultantly, we decline to grant permission to the State to file an appeal against the acquittal of the accused.

Dismissed.

(ASHUTOSH MOHUNTA)
JUDGE

October 15, 2007
Gulati

(MOHINDER PAL)
JUDGE